Notice of Alleged Safety or Health Hazards

U.S. Department of Labor
Occupational Safety and Health Administration

MOD Date	1. Complaint Number

2. Employer Name

3. Site Location (Street, City, State, ZIP)

4. Mailing Address (If different) (Street, City, State, ZIP)

5. Management Official	6. Telephone Number

7. Type of Business

8. Hazard Description. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard: This constitutes a "formal complaint" as that term is defined by OSHA.[1] By law, all complaints meeting the requirements for a formal complaint must be investigated.[2] This formal complaint is brought under and pursuant to the "general duty clause" of the OSH Act[3] which requires that "each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

Complainant alleges he or she is being exposed, in violation to the general duty clause of the OSH Act, to levels of chemicals known as secondhand tobacco smoke or Environmental Tobacco Smoke (ETS) found by the Environmental Protection Agency (EPA), National Institute for Occupational Safety and Health (NIOSH), U.S. Public Health Service (USPHS), National Research Council of the National Academy of Sciences, National Cancer Institute, International Agency for Cancer Research (IACR), World Health Organization (WHO), American Medical Association, American Cancer Society, and the American Lung Association to cause lung cancer (and deaths from lung cancer), as well as numerous other health hazards, even in otherwise healthy adults — and thus is likely to cause death or serious physical harm to employees, including complainant.

This complaint further alleges that this forced exposure to a substance the EPA has classified as an "Group A Carcinogen" (in the same category as benzene, asbestos, and arsenic),[4] and NIOSH has classified as a "potential occupational carcinogen,"[5] substantially exceeds the official exposure recommendations of the U.S. Public Health Service, and the official federal guidelines for exposure to ETS promulgated by the EPA[6] and NIOSH,[7]. Both require that, if any smoking is permitted in an indoor work area, it be restricted to separate rooms which are individually ventilated and are negatively pressurized.

Complainant also alleges that exposure to ETS is a "recognized hazard," as that term is defined by OSHA,[8] because it is a condition which by common knowledge is hazardous (see above findings), and is detectable by means of the senses — and that complainant has clearly detected the exposure by smelling the distinct odor of ETS and/or by seeing the particles of ETS in the air.

NOTES: [1.] "To meet the formality requirements outlined in Section 8(f) of the Act and in 29 CFR 1903.11, a complaint shall: (1) Be reduced to writing either on a Notice of Alleged Safety or Health Hazards (OSHA-7 Form) or in a letter; (2) Allege that an imminent danger or a violation threatening physical harm (i.e., a hazard covered by a standard or by the general duty clause) exists in the workplace; (3) Set forth with reasonable particularity the grounds upon which it is based. This does not mean that the complaint must specify a particular standard; it need only specify a condition or practice that is hazardous and, if uncommon, why it is hazardous; and (4) Be signed by at least one employee or employee representative." Chapter IX — Complaints and Referrals, A.2.d., OSHA Field Operations Manual at 201 (7-29-92). ■ [2.] Chapter IX — Complaints and Referrals, A.7., OSHA Field Operations Manual at 203 (7-29-92). ■ [3.] 29 USC § 654(a)(1). ■ [4.] "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders," EPA/600/6-90/006F (1993). ■ [5.] "Environmental Tobacco Smoke in the Workplace," Pub. 91-108. ■ [6.] "Secondhand Smoke," 402-F-004, July 1993. ■ [7.] "Environmental Tobacco Smoke in the Workplace," Pub. 91-108. ■ [8.] Consolidated Engineering Co., 12 OSAHRC 490 (1974) 2 OSCH 1253, see generally 61 Am Jur 2d Plant and Job Safety § 36.

[For Additional Citations and Information, write or call Action on Smoking and Health (ASH), 2013 H St., N.W., Wash. D.C. 20006, (202) 659-4310.]

COMPLAINANT: Add below in your own words additional details about the type, amount, and circumstances of exposure, any immediately evident health consequences, and approximate number of workers exposed (if known):

9. Hazard Location. Specify the particular building or worksite where the alleged violation exists:

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10. Has this condition been brought to the attention of: (Mark "X" in all that apply)
☐ Employer ☐ Other Government Agency (specify) _____

11. Please indicate your desire:
☐ Do not reveal my name to the Employer. ☐ My name may be revealed to the Employer.

12. The Undersigned: (Mark "X" in one box)
☐ Employee ☐ Federal Safety and Health Committee
☐ Representative of Employees ☐ Other (specify) _____
. . . believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form.

13. Complainant Name (Type or print name) | 14. Telephone Number

15. Address (Street, City, State, ZIP):

16. Signature: | 17. Date

18. If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:
Organization Name: | Your Title:

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19. Reporting ID	20. Previous Activity? ☐ Yes ☐ No If Yes, enter Type: Number:				21. Optional Complaint Number	
Identification	22. Establishment Name Change? ☐	23. Site Address Change? ☐	24. Employer ID (State's option)		25. City Code	26. County Code
Receipt Information	27. Received by:	28. Send OSHA-7? ☐ Yes ☐ No	29. Date	30. Time AM PM	31. Supervisor(s) Assigned: a.	b.
Industry & Ownership	32. Primary SIC	33. Ownership (Mark "X" in one box) a. ☐ Private Sector b. ☐ Local Government c. ☐ State Government d ☐ Federal Agency/Code				

Complaint Evaluation

34. Evaluated by:

35. Subject and Severity

	Imminent Danger	Serious	Other
Discrimination ☐			
Safety	☐	☐	☐
Health	☐	☐	☐

36. Is This a Valid Complaint? ☐ Yes ☐ No

37. Formality ☐ Formal ☐ Nonformal

38. ☐ Migrant Farmworker Camp

Complaint Action

39. Send Letter:

a. ☐ No Inspection — for Invalid Complaints
☐ Too Vague or Unsubstantiated
☐ Recent Inspection or Objective Evidence
(Date of Inspection: _____)
☐ Not in OSHA's Jurisdiction

b. ☐ No Inspection — for Nonformal Complaints
☐ No Imminent Danger or No Standard
☐ No Direct Relation to S&H
☐ Not Enough Information To Evaluate

c. ☐ OSHA-7 for Signature With Letter
☐ Complete or ☐ Partial

d. ☐ Nonformal Complaint Notification to Employer
☐ Complainant Notified ☐ Explanation of 11(c)

e. ☐ Complainant Notification With Letter d
☐ Name Not Revealed ☐ Explanation of 11(c)

f. ☐ Acknowledgement to Complainant (Optional)

g. ☐ Other (specify) _____

40. Date Letter Sent: _____ 41. Date Response Due (For letters c or d): _____

42. Inspection Planned? ☐ Yes ☐ No If Yes, Priority: If No, Reason:

43. Transfer to (Name): _____ 44. Transfer Date: _____

45. Transfer to (Category):
a. ☐ Federal OSHA/Reporting ID
b. ☐ State OSH/Reporting ID
c. ☐ Other Federal Agency/Code
d. ☐ State/Local Government
e. ☐ Other

46. Optional Information

Type	ID	Value	Type	ID	Value

47. Total Entries

Close Complaint

48. ☐ Close Complaint

49. Comments:

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CASE FILE COPY

OSHA-7 (Rev 1/84)

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FILING YOUR COMPLAINT WITH OSHA ABOUT WORKPLACE SMOKING

Please read this side of the sheet FIRST.

Filing complaints with OSHA can help limit smoking in your workplace. It can also encourage OSHA to issue a general rule limiting smoking in all workplaces, including restaurants, stores, and other public places.

This page provides general information about filing OSHA smoking complaints. The next page provides more specific information about filling out the enclosed OSHA complaint form, and mailing it to ASH for filing.

Q. WHO IS ELIGIBLE TO FILE COMPLAINTS WITH OSHA?

A. With a few exceptions, employees may file complaints with the Occupational Safety and Health Administration (OSHA) if they believe they are exposed to chemicals likely to cause death or serious physical harm. The exceptions include government employees, and individuals (like persons working in mines) subject to special safety rules.

Q. WHO SHOULD FILE A SMOKING COMPLAINT WITH OSHA?

A. Any worker eligible to file an OSHA complaint (see above) who is exposed to Environmental Tobacco Smoke (ETS) anywhere in the workplace and who believes that it may cause lung cancer or other serious diseases should file a complaint to protect his or her own health.

Q. IS FILING A COMPLAINT DIFFICULT?

A. No. ASH has added to the OSHA complaint form the legal and technical language we believe is appropriate under the circumstances. You may adopt any or all of this language without the need to recopy it. Filling out the remainder of the form is not difficult, and the other side of this sheet provides additional assistance and instructions.

Q. CAN I FILE THE COMPLAINT ANONYMOUSLY?

A. Yes, by checking a box on the form which says "Do not reveal my name to the Employer." If you check this box in response to Question 11, federal law provides that your name shall not appear in the copy provided to the employer "or on any record published, released, or made available pursuant to section (g) of [29 U.S.C. § 651]."

Q. WHERE OR WITH WHOM DO I FILE MY COMPLAINT?

A. Because the office where the complaint must be filed depends in a complicated way on the address of your employer, you can simply send your complaint to ASH. ASH will determine which of the more than 100 offices should receive it, and send it to that office.

Q. WILL ASH REPRESENT ME OR ACT AS MY ATTORNEY?

A. No. ASH cannot represent the hundreds or thousands of individual nonsmokers who may wish to file complaints, but such representation is not necessary. Any employee may file a complaint with OSHA, and OSHA's procedures are geared to processing complaints filed by workers who do not have attorneys.

Q. WHAT WILL OSHA DO WITH MY COMPLAINT?

A. OSHA employees may call you for additional information, make an inspection of the premises, and/or seek to negotiate informally with your employer to limit smoking. It is also possible that OSHA may refuse to act on the complaint, a decision which will probably strengthen ASH's law suit in the U.S. Court of Appeals seeking to force OSHA to take action regarding workplace smoking.

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FILING YOUR COMPLAINT WITH OSHA ABOUT WORKPLACE SMOKING

Please read this side of the sheet only after reading the other side.

OSHA instructions state that a worker should "complete items 2 through 18 [of the form] as accurately and completely as possible. Describe each hazard you think exists in as much detail as you can. If the hazards described in your complaint are not all in the same area, please identify where each hazard can be found in the worksite." ASH suggests that you fill out the form with a sharp-pointed pen, print your answers clearly, and be sure to answer each question 2-17. Do NOT put anything in the space for question 1 or questions 18-49, nor in the box marked "MOD Date."

Question 2 "Employer Name": the name by which your company is generally known; for example, how it is listed in the telephone book or on its own stationary

Question 3 "Site Location": the street address of your workplace, plus information like floor, department, or section of the building if relevant

Question 5 "Management Official": the name of any person or persons you know who exercise some management control or authority there

Question 7 "Type of Business": a general description, such as "insurance office," "restaurant," "bank," "school," "factory," "beauty parlor," "bowling alley," etc.

Question 8 "Hazard Description": To help satisfy OSHA's requirements, ASH has added legal and technical language which we believe is applicable to virtually all workers exposed to ETS. Cross out any which you feel is NOT applicable to your own situation. Then add more specific information about the type, amount and circumstances of your exposure, any immediately evident health consequences, and the approximate number of workers exposed (if known). The following are brief samples of the kind of information you may wish to add:

"Approximately 10 nonsmokers are subjected to smoke from three smokers in an office; complainant suffers sinus attacks." "I am forced to breath dense smoke in the restroom and it makes me nauseous." "About 50 employees are exposed to smoke in hallway, but there are no immediate observable symptoms." "Smoke drifts into my office from the smoking room, and several of us smell it."

Question 10: check the appropriate box only if you know that the problem has been brought to the attention of the employer or a government agency

Question 11: check the FIRST box if you do NOT want your name revealed to your employer

Question 12: If you are filing the complaint on behalf of yourself, you should check the first box marked "Employee"

Question 18: DO NOT PUT ANYTHING in the space for this question

Once you have completed the form and signed and dated it, please return the ORIGINAL in the enclosed courtesy envelope by December 1st. ASH will forward valid complaints to the appropriate office. There is no cost or other obligation for this service, and ASH is NOT acting as your attorney or authorized representative.

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